

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-6443**

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CLAUDE DELMUS SHAFER,

Petitioner - Appellant,

versus

EDWARD PEREZ, Warden; CHUCK KILGORE,  
Disciplinary Hearing Officer; BUREAU OF  
PRISONS; JOHN DOES,

Respondents - Appellees.

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Appeal from the United States District Court for the Southern  
District of West Virginia, at Beckley. David A. Faber, District  
Judge. (CA-00-1173-5)

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Submitted: June 20, 2002

Decided: June 26, 2002

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Before MICHAEL and KING, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Claude Delmus Shafer, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Claude Delmus Shafer appeals the district court's order dismissing without prejudice his petition filed under 28 U.S.C. § 2241 (1994). Shafer's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (1994). The magistrate judge recommended that relief be denied without prejudice due, in part, to Shafer's failure to exhaust administrative remedies and warned Shafer that failure to file timely objections to this recommendation could waive appellate review of a district court's order based upon the recommendation. Despite this warning, Shafer failed to object to the portion of the magistrate judge's report recommending dismissal without prejudice for failure to exhaust administrative remedies. The district court adopted the magistrate judge's recommendation to dismiss with action without prejudice for failure to exhaust administrative remedies.

The timely filing of objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. See Wright v. Collins, 766 F.2d 841, 844-46 (4th Cir. 1985); see also Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982) (failure to file specific objections to particular conclusions in magistrate judge's report, after being warned of consequences, waives further review). Shafer has waived appellate review by failing to object to the magistrate

judge's recommendation to dismiss the action without prejudice for failure to exhaust administrative remedies. Accordingly, we affirm the judgment of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED